



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,910	07/11/2005	Alexandre Cotarmanach	F40.12-0028	6776
27367 7590 07/21/2010 WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402				
EXAMINER				
CHOKSHI, PINKAL R				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
07/21/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/506,910

Applicant(s)

COTARMANAC'H, ALEXANDRE

Examiner

Pinkal R. Chokshi

Art Unit

2425

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-15 and 17-23.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Brian T Pendleton/
Supervisory Patent Examiner, Art Unit 2425

/Pinkal R. Chokshi/
Examiner, Art Unit 2425

Continuation of 11, does NOT place the application in condition for allowance because: Applicant alleges that the Access Unit disclosed in the claim is not the same as Data Object of the reference Pierre. Examiner respectfully disagrees. Based on the definition given for Access Unit by MPEG4 system as shown on Applicant's argument section, it further mentions the example of Access Unit (AU), where the examples of an AU are an audio/video frame. As disclosed by Pierre (col.6, lines 38-40), data objects of the stream include audio/video clips. Therefore, it rebuts the Applicant's argument.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, Applicant asserts that the combination of references does not teach the limitation "each of said stream or streams being made of access units". Examiner respectfully disagrees. First, Access Unit is a broad term and is not defined in the claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Pierre discloses (col.5, line 42-col.6, line 10; col.6, lines 38-40) that the data stream transmitted to the receiver includes data objects (access units), where data objects can be application code and data, A/V clips, control signals, triggers, etc., as represented in Fig. 2. Based on the broadest reasonable interpretation, data objects of Pierre reads on the access unit since access unit is not defined in the claim. Therefore, the combination of references meets all the limitations of the claim 1 as mentioned above and it renders the claim of obviousness.

Furthermore, Applicant alleges that the office action has not provided a suggestion or motivation to combine the references Pierre and Putzolu. Examiner respectfully disagrees. Pierre discloses (col.4, lines 42-45) that the stream is made of data objects and Putzolu discloses (col.2, lines 19-20) that the stream is a set of data packets. Furthermore, Putzolu discloses (col.2, lines 24-33) that the component of the stream comprises audio/video sequences. The motivation to combine Pierre and Putzolu references came from the secondary reference Putzolu, where the motivation would be to describe dependencies among the data packets so the arrangement of a media presentation to be varied in response to information that becomes available as the presentation progresses. The same motivation is also provided on the page 10 of the previous office action. Therefore, it rebuts the Applicant's argument.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., stream unit does not contain a sound or a picture and stream units are not transmitted cyclically) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, Applicant alleges that Furukawa does not disclose a pointer that points to another stream unit. Examiner respectfully disagrees. Furukawa discloses (0063) that the MPEG transport stream transmitted to an apparatus includes field for urgent pointer as represented in Fig. 7. Also, Referring to the standard defining the header package "TCP" (RFC793) from the same source (<http://www.faqs.org/rfcs/rfc793.html>), the definition of the "urgent pointer" is Urgent Pointer: This field communicates the current value of the urgent pointer as a positive offset from the sequence number in this segment. The urgent pointer points to the sequence number of the octet following the urgent data. This field is only interpreted in segments with the URG control bit set. Based on the above definition, one skilled in the art can conclude that the urgent pointer points to another data following the urgent data in the stream. Therefore, it rebuts the Applicant's argument.